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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,815	09/18/2003	Kevin W. Shimasaki	81009/7400	6622
22242	7590	03/30/2006	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			MCPARTLIN, SARAH BURNHAM	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/665,815	Applicant(s) SHIMASAKI ET AL.	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by **this invention**," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3, 6-7 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 1 of claim 1 only an apparatus is positively claimed. The vehicle for travel is not positively claimed, but merely presented as being in the environment of the claimed element. In line 3 of claim 1, the phrase "a based fixed to a vehicle" shows a combination of unclaimed elements (the vehicle) and claimed elements (the base). This combination creates confusion with regards to what elements applicant wishes to positively claim and therefore renders claims 1-3 and 6-7 indefinite.

The following words/phrases lack sufficient antecedent basis:

- the front portion (claim 7, line 4)
- the distant end (claim 13, line 2)

Claim 14 is rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-11, 13-14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lohr (3,632,166). Lohr discloses an apparatus (12) for use in sitting in a vehicle for travel comprising: a base (10) fixed to a vehicle (11); a seat pan (16)(18) moveably secured with the base (10); and a back rest (20) moveably secured with the base (10); the seat pan (16)(18) includes a first portion (16) and a second portion (18), wherein the first portion (16) is rotationally secured relative to the second portion (18), such that the first portion (16) can be rotationally positioned in a plurality of positions (see phantom and solid line depictions of three various positions in Figure 1) relative to the second portion (18) and wherein the first portion (16) is rotationally secured such that in a first position (i.e. solid line depiction in Figure 1) the first portion (16) of the seat pan (16)(18) is in alignments with the second portion (18) and in a second position (i.e. lowered phantom line depiction in Figure 1) the first portion (16) is out of alignment with

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the second portion (18) such that a distal end (unlabeled) of the first portion (160) located furthest from the second portion (18) is below a proximal end of the first portion (16) proximate the second portion (18).

With respect to claim 2, the seat pan (16)(18) is moveably secured with the base (10) by way of frame (50) such that the seat pan (16)(18) moves generally horizontal, as dictated by slot (26) relative to the base (10).

With respect to claim 3, the backrest (20) is moveably secured with the base (10) by way of frame (50) such that a lower portion of the backrest (20) pivots as the seat pan (16)(18) is moved. The pivotal movement of a lower portion of the backrest is best depicted in phantom in Figure 2.

With respect to claim 5, the first portion (16) is rotationally secured such that in a third position (i.e. the raised phantom line depiction in Figure 1) the first portion (16) is out of alignment with the second portion (18) such that the distal end is above the proximal end proximate the second portion (18).

With respect to claim 6, a first track (26) is fixed with the base (10), wherein the seat pan (16)(18) is mounted by way of frame (50) and pin (28) with the first track (26) such that the seat pan (16)(18) is moveably secured with the base (10) allowing the seat pan (16)(18) to slide along the first track (26) by way of frame (50) and pin (28).

With respect to claim 7, a pivot arm (24) is secured with the base (10) proximate a first and lower end of the pivot arm (24) and secured with the seat pan (16)(18), by way of frame (50) proximate a second end of the pivot arm (24), wherein the pivot arm

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pivots about the first end moving the front portion of the seat pan as the seat pan is moved. The pivoting movement of pivot arm (24) is best depicted in Figure 2.

With respect to claim 8, Lohr discloses an apparatus (12) for sitting in a vehicle, comprising: a base (10); a back (20) secured with the base (10) by way of frame (50); a seat pan (16)(18) secured with the base (10) by way of frame (50); and the seat pan (16)(18) includes a first portion (16) and a second portion (18), wherein the first portion (16) is configured to pivot relative to the second portion (18) such that the first portion (16) of the seat pan (16)(18) pivots allowing a distal end of the first portion (16) positioned away from the second portion (18) to pivot so that the distal end can be moved out of relative alignment with the second portion (18) as is best depicted by the phantom lines shown in Figure 1.

With respect to claim 9, the seat pan (16)(18) is moveably secured with the base (10) by way of frame (50) such that the seat pan (16)(18) moves generally horizontal, as dictated by slot (26) relative to the base (10).

With respect to claim 10, the back (20) is pivotably secured at a first pivot point (28) with the base (10) wherein a lower portion (unlabeled) of the back proximate the seat pan pivots in a first direction toward the seat pan (see phantom lines in Figure 2) and an upper portion of the back distal from the seat pan does not move in a second direction generally opposite the first direction beyond a plane defined by the back in a non-reclined position as depicted in Figure 1. Both the lower portion and the upper portion pivot in a forward direction toward the seat pan (16)(18).

With respect to claim 11, the back (20) includes a back frame (52) pivotably secured at a second pivot point (28) with the base (10) such that the back (20) pivots at the second pivot point (28) causing an upper portion (unlabeled) of the back (20) to move in a first direction (i.e. forward) when a force exceeding a predefined level is applied to the back in the first direction.

With respect to claims 13 and 14, the first portion (16) of the seat pan (16)(18) pivots such that the distal end extends above the second portion (18) of the seat pan.

With respect to claim 19, the seat pan (16)(18) is configured such that the first portion (16) is configured to pivot about perpendicular to the second portion (18).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley (6,742,840). As disclosed above, Lohr reveals all claimed elements with the exception of a first seat pan portion that moves toward the floor as the seat pan is moved in a horizontal direction.

Bentley discloses a first portion (42) of a seat pan (42)(90) that moves in a downward direction as the second portion (90) of the seat pan moved rearward along slot (126).

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the seat pan disclosed by Lohr as taught by Bentley. Automatic movement of the first portion in response to sliding of the second portion of the seat pan creates a safety feature that does not require actuation by the human occupant. Such an automatic feature would greatly improve the safety of seat occupants.

With respect to claim 15, Bentley discloses a first portion (42) of a seat pan (90)(42) pivotably secured to a base (22) by way of a second portion (90) of the seat pan (90)(42) which is movable secured to the base to move along an axis defined by slot (126); a back frame (1) provides support for the backrest (14) and is secured to the base (22) and as best seen in Figures 1A-1C; and pivotably securing a backrest (14) with the back frame (unlabeled), in the form of a structure with downwardly extending tabs for attaching to base frame (22), by way of second portion (90) and rollers (122) and (118) such that a lower portion of the back rest pivots as the second portion (90) of the seat pan (90)(42) is moved along the axis defined by slot (126).

With respect to claim 17, the first portion (42) of the seat pan (90)(42) is secured to the base (22) such that it can pivot out of alignment (see Figure 5) with the second portion (90).

Bentley discloses all claimed elements without the specific method of use steps. It would have been obvious to deduce the specifically claimed method steps of securing the elements together given the fact that the elements need to be secured in order to

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perform the intended function of the device. The structure disclosed by Bentley makes the method of use steps obvious.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley (6,742,840) in view of Beroth (6,352,309). Bentley discloses all claimed elements with the exception of a backrest frame rotationally secured to the base.

Beroth discloses a backrest (20) with a frame (unlabeled) pivotally secured to a base (15) at pivot point (25) while the backrest (20) is pivotally secured to the base by way of pivot (23).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a pivotal connection between the back frame and the base in the device disclosed by Bentley as taught by Beroth. Such a modification allows for an additional degree of freedom creating more adjustability of the seat for the occupant.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lohr (4,632,166) in view of Beroth (6,352,309). Lohr discloses all claimed elements with the exception of a backrest frame rotationally secured to the base.

Beroth discloses a backrest (20) with a frame (unlabeled) pivotally secured to a base (15) at pivot point (25) while the backrest (20) is pivotally secured to the base by way of pivot (23).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a pivotal connection between the back frame and the base in

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the device disclosed by Bentley as taught by Beroth. Such a modification allows for an additional degree of freedom creating more adjustability of the seat for the occupant.

Response to Amendment

10. The amendment filed on February 7, 2006 has been considered in its entirety. Remaining issues are detailed in the section above.

The arguments with respect to Bentley as applied to claims 1-11 and 12-14 are moot in view of the new grounds of rejection in view of Lohr set forth above.

With respect to claim 15, Applicant argues that Bentley fails to disclose a back frame secured to the base and a backrest pivotably secured with the frame. Figure 3 best discloses the back frame (unlabeled) with downwardly extending tabs that attach the back frame to the base (22). The backrest (14) is pivotably secured to this back frame by way of roller (122) in slot (130).

Applicant further argues that Beroth does not disclose a backrest pivotably secured to a back frame. The backrest (20) is pivotably secured at (25) to the upwardly extending portion of frame (15) which constitutes a back frame.

In light of the new grounds of rejection set forth above, this action is made NON-FINAL.

Conclusion


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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM
March 28, 2006


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